Supreme Court, U.S.
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No.

IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 2005

OSCAR MARTINEZ and IAN BOMKAMP,
Petitioners,

vs.

PEOPLE OF THE STATE OF ILLINOIS,
Respondent.

Petition for Writ of Certiorari to the
Illinois Appellate Court, First District

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Where Illinois has but "one unitary appellate court," do diametrically opposed decisions from two separate divisions of the First District Appellate Court, granting a new trial for one jointly-tried codefendant and affirming for two others on the same issue, violate the Due Process and Equal Protection Clauses of the Fourteenth Amendment?

2. Where three codefendants; Martinez, Bomkamp, and Iniguez were all three jointly-indicted and convicted by the same jury on the same evidence in a joint trial – and the Illinois Appellate Court grants a new trial for Iniguez only on the issue of prejudicial gang evidence, yet affirms for Martinez and Bomkamp on the same issue, on the same evidence, without rational basis and without giving a principled reason for acting differently – does that violate due process, equal protection, fundamental fairness, and constitute arbitrariness?

3. Does allowing Illinois to arbitrarily separate the appeals of jointly-tried and identically-situated codefendants – and then issue diametrically inconsistent appeal verdicts – also undermine the policy and reasons for favoring joint trials?

PARTIES INVOLVED

In the appeal proceedings from the judgment entered in the Circuit Court of Cook County, Illinois:

Petitioners, Oscar Martinez and Ian Bomkamp, were the Appellants in the Appellate Court of Illinois, First District. (App. D)

Respondent, People of the State of Illinois, was the Appellee in the Appellate Court of Illinois, First District. (App. D)

* * *

Petitioners were the petitioners in their respective Petitions For Leave To Appeal, denied by the Illinois Supreme Court. (Apps. A, B)

Respondent, People of the State of Illinois, was the respondent in the Petitions For Leave To Appeal, denied by the Illinois Supreme Court. (Apps. A, B)

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1. Illinois has laid "an unequal hand on those who have committed intrinsically the same quality of offense." Skinner v. Oklahoma, 316 U.S. 535, 541 (1942). By doing so, "it has made as invidious a discrimination as if it had selected a particular race or nationality for oppressive treatment." Ibid.

2. The disparate treatment of petitioners and their codefendant involves a manifest injustice. Fundamental fairness requires that like cases be treated alike. (U.S. Const. Amend. 14; App. E)

3. The failure of Illinois to grant the same relief for petitioners, or give a principled reason for acting differently in the two appellate decisions (Petitioners, App. D; co-defendant Iniguez, App. G), violates due process and equal protection of the laws. (App. E) This inconsistency from Illinois constitutes obvious arbitrariness.

4. Allowing Illinois to arbitrarily separate the appeals of jointly-tried and identically situated co-defendants – and then issue diametrically inconsistent appeal verdicts – also undermines the policy and reasons for favoring joint trials.

5. Petitioners respectfully pray that certiorari be granted to review the judgment below.

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APPENDICES:

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PETITION FOR A WRIT OF CERTIORARI TO THE APPELLATE COURT OF ILLINOIS, FIRST DISTRICT

Petitioners, Oscar Martinez and Ian Bomkamp, pray that a writ of certiorari issue:

to the Appellate Court of Illinois, First District, to review its Judgment affirming each petitioner's conviction of first degree murder and aggravated battery and sentence of 50 years.

Orders and Opinions Below

The following Orders are all contained in the Separate Volume Appendix to this Petition:

Order of the Appellate Court of Illinois, First Judicial District, First Division, entered June 20, 2005, People v. Oscar Martinez and Ian Bomkamp, Nos. 1-02-2299 and 1-02-2300, Consolidated, affirming convictions and sentences of Martinez and Bomkamp (i.e., affirming judgment of Circuit Court of Cook County, No. 99 CR 12134). This Order is set out at App. D, pp. App. 4-31.

Order of the Appellate Court of Illinois, First Judicial District, entered August 2, 2005, People v. Oscar Martinez and Ian Bomkamp, Nos. 1-02-2299 & 1-02-2300, denying petitions for rehearing. (App. C, p. App. 3)

Order of the Supreme Court of Illinois, entered December 1, 2005, People v. Oscar Martinez et al. (Oscar Martinez, petitioner), No. 101183, denying petition for leave to appeal. (App. A, p. App. 1)

Order of the Supreme Court of Illinois, entered December 1, 2005, People v. Oscar Martinez et al. (Ian Bomkamp, petitioner), No. 101177, denying petition for leave to appeal. (App. B, p. App. 2)

In addition to the above-referenced Orders in petitioners' cases, we also include the following Order, necessary to an understanding of petitioners' position:

Order of the Appellate Court of Illinois, First Judicial District, Second Division, dated September 7, 2005, ordered published as an Opinion *[on motion of appellant Iniguez]* October 18, 2005, People v. Jeff Iniguez, No. 1-02-1182, reversing and remanding judgment of the Circuit Court of Cook County, No. 99 CR 12134.* (App. G, pp. App. 33-57)

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* Iniguez, Martinez, and Bomkamp were jointly tried. Circuit Court of Cook County, case No. 99 CR 12134 – reversed and remanded as to Jeff Iniguez – is the same judgment that was affirmed as to petitioners by a different division of the same appellate court in petitioners' (Martinez' and Bomkamp's) appeal; App. D, pp. App. 4-31.